

MINUTES

MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON BUSINESS AND LABOR

Call to Order: By **CHAIRMAN MIKE TAYLOR**, on February 16, 2001 at 8:00 A.M., in Room 422 Capitol.

ROLL CALL

Members Present:

Sen. Mike Taylor, Chairman (R)
Sen. Mike Sprague, Vice Chairman (R)
Sen. Edward Butcher (R)
Sen. Vicki Cocchiarella (D)
Sen. Sam Kitzenberg (R)
Sen. Glenn Roush (D)
Sen. Don Ryan (D)

Members Excused: Sen. Dale Berry (R)
Sen. Dale Mahlum (R)

Members Absent: None.

Staff Present: Bart Campbell, Legislative Branch
Kyanne Kelly, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 349, 2/13/2001; SB 308,
2/13/2001; SB 369, 2/13/2001;
SB 438, 2/13/2001; SB 414,
2/13/2001; SB 367, 2/13/2001
Executive Action: SB 369; SB 421

HEARING ON SB 349

Sponsor: SENATOR JON TESTER, SD 45, BIG SANDY

Proponents: Brenda Elias, State Auditors Office
Aidan Myhre, Montana Chamber of Commerce

Opponents: None

Opening Statement by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 0.7}

SENATOR JON TESTER, SD 45, BIG SANDY, said this bill proposes changes to the Securities Act of Montana, which is responsible for regulating securities transactions in Montana. He said this bill will help businessES who need start up costs and help existing businessES to expand their operations, build new facilities, or expand existing facilities. He said, that if passed, this bill could save businesses money in the areas of attorney's fees, accounting fees, and certain regulatory fees. He also stated that this bill would help business because they would not have to register their securities with the auditor's office until they reached a higher number of potential investors. He said this bill also provides that sales people would not have to be registered as long as they don't receive any kind of compensation for the sales.

Proponents' Testimony:

Brenda Elias, State Auditors Office, told of the process that businesses have to go through now. She also spoke about the changes made by this bill. **EXHIBIT**(bus39a01)

Aidan Myhre, Montana Chamber of Commerce, said they just wanted to go on record as supporting the bill.

Opponents' Testimony: None

Questions from Committee Members and Responses:

SENATOR MIKE SPRAGUE asked how this would help someone who had an idea and wanted to raise capital.

Senator Jon Tester replied this deals with reducing regulations. It broadens the horizon so you can interest more people in your idea.

Brenda Elias said this bill deals with regulation and will encourage people who have ideas to raise capital because it reduces the number of hoops they have to go through.

CHAIRMAN MIKE TAYLOR asked what other states have this law.

Brenda Elias said California and Colorado have similar exemptions.

Closing by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 13.9}

JOHN TESTER, SD 45, BIG SANDY, said the thrust of this bill is to reduce regulations so that the people that have good ideas can go out and get some money and implement those ideas. He said this would create jobs and wealth in our state and increase our tax base.

HEARING ON SB 308

Sponsor: SENATOR DAN HARRINGTON, SD 19, BUTTE

Proponents: Don Judge, AFL-CIO

**Opponents: Riley Johnson, Federation of Independent Business
Webb Brown, Montana Chamber of Commerce**

Informational Witness: Kevin Brown, Department of Labor

Opening Statement by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 15.3}

SENATOR DAN HARRINGTON, SD 19, BUTTE, said this bill would do two things, first it adds a third prong to the extended benefits provision of the current unemployment law, second it would add additional benefits during periods of high unemployment.

EXHIBIT (bus39a02)

Proponents' Testimony:

Don Judge, AFL-CIO, said this is a trigger mechanism to kick in extended benefits for dislocated workers and others who are unemployed as a result of a high unemployment rate in state of Montana. He noted that this bill reaches all workers, not just one group.

Opponents' Testimony:

Riley Johnson, Federation of Independent Business, opposed this bill on the basis that it is confusing, and that there is no fiscal note. He also thought that this would raise the unemployment rate employers have to pay.

Webb Brown, Montana Chamber of Commerce, said he does not support this bill because he does not know what the fiscal impact would be.

Informational Witness: **Kevin Brown, Department of Labor**, made himself available for questions.

Questions from Committee Members and Responses:

SENATOR VICKI COCCHIARELLA wanted an explanation of the bill.

Kevin Braun said it has to reach a threshold to kick in. He said the unemployment rate would have to be 20% more than it was in the previous period.

SENATOR SPRAGUE asked if the would be 20 weeks.

Kevin Braun said it would be 13 weeks regular unemployment and then 7 additional weeks in a high unemployment time.

SENATOR SPRAGUE asked if it could be calculated what this would do to the unemployment fund.

Kevin Braun said that calculation could be done if it were currently an extended benefit period, but there are extenuating circumstances that can't be calculated at this time. The federal government pays half of the benefits paid when on the extended benefit program.

SENATOR COCCHIARELLA asked when the last time Montana had an 8% unemployment rate.

Kevin Braun said it has been longer than 10 years. The last time Montana was in an extended benefit period was in 1990-1991.

CHAIRMAN TAYLOR asked to be provided with estimates for the costs.

Kevin Braun said he would provide that information.

CHAIRMAN TAYLOR said Montana has the highest unemployment premiums in the U.S. right now, and he thought that this bill would increase it.

Senator Harrington said that at this time Montana premiums are at the lowest they can be.

Jim Hill from the Unemployment Insurance office speculated that the figures Chairman Taylor had read might be from the years when the trust fund went broke.

Closing by Sponsor:

{Tape : 1; Side : B; Approx. Time Counter : 7.3}

SENATOR DAN HARRINGTON, SD 19, BUTTE, said this is not a complicated bill. He noted that it is simply that if unemployment goes over 6.5% over a period of 13 weeks, then some of the workers who are unemployed need to be taken care of.

HEARING ON SB 369

Sponsor: SENATOR BILL GLASER, SD 08, HUNTLEY

Proponents: Jerry Driscoll, Building Trades Council
 David Warner, United Brotherhood of Carpenters
 Pat Pennington, Pennington Construction
 Don Judge, AFL-CIO

Opponents: Robert Throssell, Montana Technical Council

Informational Witness: Russ Katherman, Dept of Administration

Opening Statement by Sponsor:

{Tape : 1; Side : B; Approx. Time Counter : 12.8}

SENATOR BILL GLASER, SD 08, HUNTLEY, said that if you are an architect and you have a relationship with the contractor then there should be someone else who is looking for quality control on the job.

Proponents' Testimony:

Jerry Driscoll, Building Trades Council, said this bill would ultimately save money. He said this is a good idea.

David Warner, United Brotherhood of Carpenters, gave the committee his written testimony. **EXHIBIT (bus39a03)**

Pat Pennington, Pennington Construction, talked about the spec book on a construction project. He said it protects the owner and that the architect firm is responsible to see that this is done right. If the architect and the contractor were one and the same there would be many ways and thousands of dollars that could be made by overlooking some of the specs.

Don Judge, AFL-CIO, said this affects public works projects and this bill would help them to get done right.

Opponents' Testimony:

Robert Throssell, Montana Technical Council, said the proponents haven't pointed out any problems, which makes it look like there isn't a problem. This is a small state and architects and Contractors are frequently related to each other in some way whether it is by marriage, or shared business interests.

Informational Witness: Russ Katherman, Dept of Administration, said they have looked through the bill. The problem they have is defining 'relationship'.

Questions from Committee Members and Responses:

SENATOR MIKE SPRAGUE wanted a definition of relationship.

Russ Katherman said there is no definition of business relationship, it could be a broad range of definition.

SENATOR GLASER said the intent of the bill's definition of relationship is a close financial relationship from which you have a vested interest to make a profit.

Closing by Sponsor:

{Tape : 1; Side : B; Approx. Time Counter : 29.1}

SENATOR BILL GLASER, SD 08, HUNTLEY, the point of this bill is to inspect the work before it is hidden. When there is a close financial relationship between the one who designs the building and the one who builds the building there are potential problems.

HEARING ON SB 438

Sponsor: **SENATOR CHRIS CHRISTIAENS, SD 23, GREAT FALLS**

Proponents: **Greg Van Horssen, State Farm**
 Jan Van Riper, State Auditor

Opponents: None

Opening Statement by Sponsor:

{Tape : 2; Side : A; Approx. Time Counter : 2.2}

SENATOR CHRIS CHRISTIAENS, SD 23, GREAT FALLS, said this bill creates standards for property and casualty insurance when seeking utilization review opinions in relation to coverage of medical expenses or bodily injury. He also said it creates some standards for utilization review organizations to use that will be standardized and fair to all parties.

Proponents' Testimony:

Greg Van Horssen, State Farm, said he supports this bill and the concepts behind it. He noted that often times there are complex medical questions that have to be looked at and this is the reason for utilization review. He supports this bill because there have been utilization review people who don't meet standards of professionalism.

Jan Van Riper, State Auditors office, said she supports this bill with the amendments. **EXHIBIT (bus39a04)**

Opponents' Testimony: None

Questions from Committee Members and Responses:

SENATOR SPRAGUE asked if the amendments clarified what to do if there is a dispute.

Jan Van Riper said essentially utilization review is done if an insurance carrier has a question of whether to pay a bill or not,

then they can send it out for review. This bill tries to set up some standards.

SENATOR DON RYAN asked if the intent of this bill was to make sure that if someone uses this resource that it is a legitimate resource based in Montana.

SENATOR CHRISTIAENS said that is correct. This bill would protect the consumer as well as give good information back to the company.

Greg Van Horrssen said this bill will apply to entities based in Montana, but also would apply to those who do work for Montana companies from outside the state.

Closing by Sponsor:

{Tape : 2; Side : A; Approx. Time Counter : 15.2}

SENATOR CHRIS CHRISTIAENS, SD 23, GREAT FALLS, said this is a good consumer protection bill.

HEARING ON SB 414

Sponsor: **SENATOR JOHN COBB, SD 25, AUGUSTA**

Proponents: Susan Good, Allied Citizens for Health Care Equity
Jerry Loendorf, Montana Medical Association
Jan Van Riper, State Auditors Office

Opponents: Tanya Ask, Blue Cross/Blue Shield
Page Dringman, Health Insurance Corp. of America
Tom Clinch, New West Health Services
Mary Allen, Montana Benefits and Life Company
Steve Turkiewicz, Montana Auto Dealers
Jacqueline Lenmark, American Insurance Association

Opening Statement by Sponsor:

{Tape : 2; Side : A; Approx. Time Counter : 17.1}

SENATOR JOHN COBB, SD 25, AUGUSTA, said this bill is an act that prohibits an insurer from requiring a health care provider to participate in their other health benefit plans, as a condition of participation in one health benefit plan.

Proponents' Testimony:

Susan Good, Allied Citizens for Health Care Equity, said some companies ask providers to sign a particular contract and then defacto rope them into another contract they don't want to be in. This results in higher costs to everyone.

Jerry Loendorf, Montana Medical Association, said this bill would prohibit health benefit plans from requiring someone who contracts with them from also entering other contracts with them. And that may be done by a phrase in the contract they sign.

Jan Van Riper, State Auditors Office, said they generally support this bill and that it is a fundamental fairness issue that people don't get caught into something they don't want because they signed one contract.

Opponents' Testimony:

Tanya Ask, Blue Cross/Blue Shield, said this is a well intentioned bill, however she was concerned with the definition of 'health benefit plan', she wanted that cleared up. She was also concerned about the basic codification.

Page Dringman, Health Insurance Association of America, said she supports what Tanya Ask said. She is concerned about the definition and codification.

Tom Clinch, New West Health Services, said he agrees with Tanya and wants the definition of 'health benefit plan' made clear.

Mary Allen, Montana Benefits and Life Company, said she has a concern with the definition of 'health benefits plan'.

Steve Turkiewicz, Montana Auto Dealers, said he is also concerned about the definition of 'health benefits plan'.

Jacqueline Lenmark, American Insurance Association, said her opposition is the same as Tanya's.

Questions from Committee Members and Responses:

SENATOR GLENN ROUSH asked **Susan Good** if she had any comment.

Susan Good said she would work with the opponents to create an amendment they could agree on.

Closing by Sponsor:

{Tape : 2; Side : B; Approx. Time Counter : 1.1}

SENATOR JOHN COBB, SD 25, AUGUSTA, closed without comment.

HEARING ON SB 367

Sponsor: SENATOR BOB DePRATU, SD 40, WHITEFISH

Proponents: Ronna Christman, Petroleum Marketers Association
 Steve Hanson, City Service
 Richard Clark, Quick Way Stores
 Tom Harrison, AAA Mountain West
 Val Schwartz, Holiday Convenience Store
 Keith Durham, Petroleum Dealer in Missoula

Opponents: Gail Abercrombie, Montana Petroleum Association
 John Cadby, Montana Bankers Association
 Bob Pyfer, Montana Credit Union League
 Beda Lovitt, Credit Card Coalition

Opening Statement by Sponsor:

{Tape : 2; Side : B; Approx. Time Counter : 2}

SENATOR BOB DePRATU, SD 40, WHITEFISH, said this is a bill about a tax on fuel which is paid up front by the distributor. He said that when the distributor has a credit card transaction they have to pay for the collection of tax by credit card. He said the purpose of this bill is to provide that the merchant does not have to pay a fee on the tax collected for the state.

EXHIBIT (bus39a05)

Proponents' Testimony:

Ronna Christman, Petroleum Marketers Association, said this has not been done in any other state. She said there are several unique things about fuel, the industry prepays the tax to the government, and they pay the tax on what they buy, not on what they sell. She said the distributor has to pay fees for something that is never theirs, they are simply a conduit.

EXHIBIT (bus39a06) EXHIBIT (bus39a07)

Steve Hanson, City Service, said there are 3 major credit card processing services in the U.S., and all of these people are adding their fees as the credit card is processed. He said that

the oil companies get profit from this, and it would be hard for them to change.

Richard Clark, Quick Way Stores, said credit card fees are a major part of their expense. He said passing this bill would help him a lot in his business.

Tom Harrison, AAA Mountain West, said that on behalf of the 150,000 members of his club they ask for a do pass on this bill.

Val Schwartz, Holiday Convenience Store, gave a hand out which showed how the fees actually impact businesses.

EXHIBIT (bus39a08)

Keith Durham, Petroleum Dealer in Missoula, said there is a higher usage of credit cards now, which translates into higher fees for the retailers.

Opponents' Testimony:

Gail Abercrombie, Montana Petroleum Association, said it would be very difficult to get the itemized list from these transactions. She said that frequently people get more than fuel and it would be difficult to figure out what percentage is for the fuel tax, and that was other things.

John Cadby, Montana Bankers Association, said this wouldn't work, and if it could work, it would cost too much and they would charge the cost back to the retailer and it would end up costing the customer more. It would be undoable to change it technically, and if it was done it would cost too much.

Bob Pyfer, Montana Credit Union League, said that to break this out in this manner is unfeasible and that it would be too expensive to try to do it.

Beda Lovitt, Credit Card Coalition, said the system is already very complicated and this would only make it more complicated.

Questions from Committee Members and Responses:

SENATOR RYAN said part of the revenue source for credit companies is money collected for taxes.

Beda Lovitt said that Montana is a small market and if credit card companies are asked to bear the risk of the entire credit card transaction and yet can only charge a fee on a portion of that credit card debt the fees would go up.

SENATOR BUTCHER asked if this needs to be addressed on a bigger scale. Such as a bill requiring the state to compensate the businessman for collection of the tax.

SENATOR DEPRATU said this is a separate issue. The merchant has to pay a fee for collecting the tax.

SENATOR SPRAGUE wanted to be clear that this is talking about the percentage on the state tax.

Ronna Christman said that is right, the fee percentage on the state tax.

CHAIRMAN TAYLOR had a concern about how to make this applicable, because he could see that the technical issues would be a problem. He also wanted someone to address the interstate issue.

Ronna Christman said they already have the capability to do this with the technology in current use.

Steve Hanson, said the technology is already available.

Closing by Sponsor:

{Tape : 3; Side : A; Approx. Time Counter : 20.7}

SENATOR BOB DEPRATU, SD 40, WHITEFISH, said he wanted to focus on what the bill was intended to do. He said it was a matter of fairness, should the merchant have to pay a fee to collect the tax?

EXECUTIVE ACTION ON SB 369

Motion: SEN. ROUSH moved that **AMENDMENTS TO SB 369 BE ADOPTED.**

Discussion: **SENATOR SPRAGUE** asked **Bart Campbell** to make a conceptual amendment to define the relationship as financial, business relationship.

Vote: Motion carried unanimously.

Motion/Vote: SEN. ROUSH moved that **SB 369 DO PASS AS AMENDED.**
Motion carried unanimously.

EXECUTIVE ACTION ON SB 421

Motion/Vote: SEN. COCCHIARELLA moved that **AMENDMENTS TO SB 421 BE ADOPTED**. Motion carried unanimously.

Motion/Vote: SEN. COCCHIARELLA moved that **SB 421 DO PASS AS AMENDED**. Motion carried unanimously.

EXECUTIVE ACTION ON SB 277

No executive action. Senator Cocchiarella wanted to take it off the table. It was discussed, and left on the table.

ADJOURNMENT

Adjournment: 10:15 A.M.

SEN. MIKE TAYLOR, Chairman

KYANNE KELLY, Secretary

MT/KK

EXHIBIT (bus39aad)